

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PETER ALLEN, *et al.*

Plaintiffs,

-vs.-

CARL KOENIGSMANN, et al.

Defendants.

ORDER TO PRODUCE

19-cv-8173 (LAP)

ECF

**TO: Michael Damore, Superintendent
Marcy Correctional Facility
9000 Old River Road
Marcy, New York 13403**

WHEREAS Matthew Herbert DIN# 19A3325 is a class member in the above-captioned matter;

WHEREAS Mr. Herbert is currently in custody at Marcy Correctional Facility in Marcy, New York; and

WHEREAS Mr. Herbert's testimony is needed for a trial in the above-captioned matter; and

WHEREAS Marcy Correctional Facility has already been ordered to reserve the video conferencing equipment for August 9, 2023; and

NOW THEREFORE, IT IS ORDERED that the SUPERINTENDENT OF MARCY CORRECTIONAL FACILITY produce Matthew Herbert on August 9, 2023 at 2:00pm until his testimony is complete and/or the day's proceedings have ended; and

IT IS FURTHER ORDERED that Mr. Herbert must be allowed to participate in the video proceeding in a privileged and confidential manner; DOCCS personnel must allow him to bring any legal papers Mr. Herbert has been sent by his counsel and he shall be allowed to testify without the presence of any third parties in the room, unless bona fide safety and security issues necessitate the presence of a member of DOCCS' personnel.

Dated: July____, 2023

So ordered: _____

LORETTA A. PRESKA, U.S.D.J.